

the votes of an organization which includes Iraq, Libya, and Cuba is an outrage.

So while I take the floor today in light of the current acts designed against Israel, I do so in the context of the actions of the United Nations on a continuing basis with regard to many countries, including our own.

The United States has had a seat on the Human Rights Commission continuously since 1947. We have been a clear leader on the Commission, enforcing investigations of human rights abuses around the world. Indeed, U.N. High Commissioner Mary Robinson has said that the United States has made a "historic contribution" to the Commission. Indeed, I see no need to justify the actions of the United States with regard to human rights. Indeed, it is not because we don't defend human rights that we were removed from the Commission; it is because we do defend human rights that we were removed from the Commission. Had we not taken actions against Cuba, had we not spoken up against atrocities in North Korea and China, had we been silent about actions in Africa and Latin America, there is no doubt the United States would have remained on the Commission. We are victims because of what we have done right, not because of what we have done wrong.

I have no doubt that our standing up against anti-Semitism and in defense of Israel will now strengthen the case against the United States as an advocate of human rights. So be it. Let the nations of the world balance the actions of the United Nations and their own regimes against the historic role of the United States, considering our historic difficulties, and let history be the judge. Which institution, the U.S. Government or the United Nations itself, has been the more consistent and dependable defender of the weak and the vulnerable, with a principled stand for human rights? I will accept that judgment of history, and there is no need to wait for the result; it is clear. The U.S. Government has had no peer in defending the rights of peoples around the globe.

I take the floor as a partisan Democrat involved throughout my career in the fight for human rights and an active involvement in foreign policy to salute this administration. Secretary Powell did not go to Durban. He made the right decision. When the administration withdrew from the Durban conference, President Bush made the right decision. Durban is not our place. If we must fight the fight against racism, the fight against anti-Semitism, alone, without the United Nations, from the perch of Washington rather than the perch of the U.N. conferences in New York or regional conferences in Durban or Switzerland or anywhere else, we may fight alone but we fight in good company.

I yield the floor.

Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CANADIAN SOFTWOOD LUMBER

Mr. BAUCUS. Mr. President, I rise today to discuss the U.S.-Canadian dispute on softwood lumber.

Although it might have escaped the attention of many in Washington, the Bush administration announced a critical trade policy decision over the August recess.

After considering truck loads of evidence provided by a legion of lawyers, the Department of Commerce once again decided that Canadian provinces giving away timber at a fraction of its value was a subsidy to Canadian lumber production.

Specifically, the Commerce Department issued a preliminary finding that these subsidies amounted to 19.3 percent of the value of Canadian lumber. Further, the Commerce Department took the unusual step of declaring critical circumstances, which back dates the duties by 90 days. It did this because it determined Canadian producers were flooding the U.S. market—in an attempt to take advantage of the expiration of the previous U.S.-Canada agreement on this topic.

The Commerce Department is due to issue another preliminary finding under another U.S. fair trade law, antidumping law, in the middle of October. I agree with most observers that this will likely result in a substantial increase in the current duty.

But I do not rise today to discuss the intricacies of U.S. trade laws.

Nor, Mr. President, do I plan to discuss the details of Canadian lumber programs.

I have never understood how giving away timber at a fraction of its market value and allowing government-set prices instead of market prices could be anything but a market distortion. But that is a debate that we have had for 20 years and I myself have discussed on the Senate floor at least a dozen times.

I see little point in repeating facts that the Commerce Department and independent observers on both sides of the border have long acknowledged. I ask unanimous consent that the forward and executive summary of an excellent analysis of Canadian subsidy programs in British Columbia, prepared by a coalition of Canadian environmental group—"Cutting Subsidies, or Subsidized Cutting?" be printed in the RECORD after my statement.

The PRESIDING OFFICER. Without objection it is so ordered.

(See Exhibit 1)

Mr. BAUCUS. Instead I want to look to the future. I rise today to offer a true and lasting solution to what has become the world's largest bilateral trade dispute and, by far, the largest fly in the ointment in the U.S.-Canada relationship. Given some political changes on both sides of the border, I believe it is now possible to negotiate a lasting and real agreement on the U.S.-Canada softwood lumber dispute.

In 1986, at a similar juncture in a trade case, the U.S. and Canada agreed to resolve the dispute by allowing Canada to collect an export duty—a duty the United States would have otherwise collected. At the same time, Canadian provincial officials agreed to a set of forestry program reforms to eliminate the underlying subsidies.

This arrangement broke down when Canada unilaterally—and without explanation—withdrew from the arrangement. But with some adjustments, a similar approach could be pursued to a real solution.

The basic concept is simple. Once the final preliminary duty is known, Canada would agree to collect this on its exports and thus gain the revenue that would otherwise go to the U.S. treasury.

The antidumping element complicates this understanding, but it could be addressed through a minimum export price or a duty adjustment to account for the dumping.

Once the basic export duty rate was set, both sides would agree that the duty would be lowered as Canadian provinces eliminated subsidies. For example, if Canada—or particular provinces—stopped artificially lowering the price of stumpage, the portion of the export duty aimed at offsetting stumpage subsidies would be dropped.

Unfortunately, evaluating the impact of proposed reforms in Canada's forestry subsidies is a complex task and, sadly, these complexities have been used to hide subsidies and replace old subsidies with new ones.

In order to assist the trade negotiators from both countries in evaluating proposals for reform, I propose an ad hoc commission—made up of representatives of the forest industry from both countries, representatives of organized labor from both countries, and representatives of the environmental community from both countries.

This panel would evaluate proposals for forestry reform in Canada and provide a non-binding evaluation of the proposed changes to relevant U.S. and Canadian government officials.

I feel particularly strong that representatives from the environmental community be included in this group because they are the closest thing to truly independent observers of Canadian forestry practices.

In addition to providing a fair and thorough evaluation of proposals for change, this group could be a watchdog against backsliding. And it could provide a forum to discuss cross-border cooperation on sustainable forestry practices, joint positions for international negotiations on trade and forestry issues, and joint approaches to problems, such as protection of endangered species.

I believe such non-binding oversight could ensure real progress toward a final and lasting solution to this difficult trade problem.

I have read in the Canadian press some statements that Canadian officials—or perhaps the U.S. lawyers that represent them—that Canada should pursue no such deal until after the issue is fully litigated before the World Trade Organization and perhaps the NAFTA.

But the central fallacy of this position is that the U.S. would negotiate after it has turned back challenges. And there is no reason to believe that Canada would succeed in such litigation. Despite the rhetoric of some, Canada's record in past complaints is mixed, and U.S. law and practice has been refined to avoid past problems. If challenged, I believe the U.S. actions on softwood lumber will survive international scrutiny.

Obviously, Canadian officials will choose whatever strategy they see fit, but such a litigate-at-all-costs strategy would result in the duty being in place for most of a year—at minimum.

The bottom line is this: Out-of-court settlements are struck when neither party is certain of the outcome of litigation; no one settles after they have won the final appeal.

If the U.S. duties survive Canadian challenges, I would then oppose any effort to settle the dispute along the lines I have laid out. If the U.S. is forced to litigate and succeeds, there will be no domestic support for a settlement, no export duty, and no compromise. A compromise is possible now, not later.

Again, I congratulate the Commerce Department—and particularly the hard work of Secretary Don Evans, Undersecretary Grant Aldonas, and Assistant Secretary Faryar Shirzad—for decisive action in this case.

Lumber mills and their workers in Montana and across the country have suffered because of Canadian lumber subsidies. I plan to work with the Commerce Department to ensure that the suffering is over so that efficient, environmentally sound U.S. mills can compete on a level playing field—one way or another.

#### EXHIBIT 1

CUTTING SUBSIDIES, OR SUBSIDIZED CUTTING?  
Report Commissioned by BC Coalition for Sustainable Forestry Solutions, July 12, 2001.

Prepared by: Tom L. Green, M.A., Ecological Economist; Lisa Matthaues, MSc, Resource Economist, Sierra Club of BC

#### FOREWARD

(By Dr. Michael M'Gonigle)

Textiles, dairy products, newsmagazines, steel, airplanes, fish plants, forest products—throughout the world, subsidies exist for every industry imaginable. Talk of reducing these subsidies dominates for daily news with seemingly endless rounds of bilateral and multilateral trade talks. But despite the hype, and the rhetoric, the topic is rarely treated in the thoughtful manner it deserves.

There are, of course, many good reasons for government subsidies. In today's increasingly homogenized mass-market world, it makes sense to protect a nation's ballet and local newspapers. So too it is important to keep the rural base vital by maintaining support for family farms, and even encouraging new organic producers. Indeed, subsidies are most useful in helping fledgling industries make inroads against the predatory behaviour of much larger, and often inefficient, older industries.

But subsidies are all too frequently destructive and unsustainable. Such subsidies can be the most difficult to undo because they are deeply embedded, hidden from view, and reward the most powerful interests in society.

As Tom Green and Lisa Matthaues demonstrate in this paper, such is the case with the BC forest industry. Here is an industry that from its inception to the present day is supported by a raft of subsidies. Once designed as a way to develop the province, many of these subsidies are today almost completely invisible, propping up an industry against all economic and social logic, and determining the potential for good public policy. This paper only addresses this situation in British Columbia, but many of their arguments apply to the industry worldwide.

The phrase “perverse subsidies” captures the situation admirably, perverse because government is spending money, or not collecting rents in a fashion that undermines economic as well as social (and environmental) interests. Take, for example, the hundreds of millions of dollars that have gone to prop up outdated mills in northern BC. These subsidies seemingly respond to the social need of keeping remote communities afloat. In fact, this money undercuts other, more efficient communities by artificially depressing their markets, while it robs even the host communities of the opportunity to direct that money, and the local industry, into creating new value-added industries that would foster more stable, longer-term, employment.

Many subsidies are not so high profile, however. Undoubtedly, the most pernicious subsidy exists in the lax environmental standards that have long existed in BC. This situation permits the industry as a whole to shift a vast array of costs out of its own production processes, and impose them instead on logged out salmon streams, disrupted caribou habitat, and clearcut coastal watersheds. In such cases, the fishing industry, First Nations, and tourism operators pay the costs of this industry.

The authors are self-described “ecological economists.” To many readers, this will be

an unfamiliar phrase. But it signifies a new type of economic analysis, a critically important analysis if society is to weed out our landscape of perverse subsidies. As our common sense tells us, the human economic system is a subset of our natural ecological system. Creating a sustainable future means re-embedding our over-extended economy in the natural world.

That challenge is, as the authors makes clear, structural. The forest industry is underpinned by a land tenure system that blankets the province. These long-term tenures artificially depress prices (through lack of market competition) while they discriminate against innovative new entrants (through exclusion from access to timber). Indeed, this is the very sort of state-chartered, state-protected, and bloated industry that, 200 years ago, Adam Smith railed against in his classic text, *The Wealth of Nations*. Only by taking away their privileged position, Smith argued, could the natural abilities of the citizenry to innovate, and prosper, be set loose.

Smith's radical argument applies equally in British Columbia today. Indeed, in a thoughtful addition to the discussion of structural subsidies, the authors turn our attention to the failure to pay due regard to aboriginal entitlements to the resource base. As any economist will explain, market values reflect the existing distribution of wealth between sellers and buyers. In British Columbia today, a whole group of buyers (the forest industry) secures its products well below its potential costs because the seller (the provincial government) excludes another legitimate interest (First Nations) from the bargain. This situation dramatically skews the whole forest products market, drastically reducing the obligations of the corporate sector.

The authors have bravely raised the flag on a critical topic for the new Liberal government in British Columbia. This paper is only a beginning, however. Much work remains to be done to ferret out the true costs of an industry that has for too long gotten by without public scrutiny. Despite its avowed commitment to the “magic of the marketplace”, the new government will quickly find that it is easier to continue with the status quo than to challenge it fully and transparently.

Forestry is a powerful industry in BC, its power coming from exactly those subsidies that must now be uncovered, re-examined and withdrawn. Remove the subsidies, and you transform the industry.

This is no small task. But the future health of the BC economy, and the sustainability of its endangered ecosystems, depends upon our doing it.

#### 1. EXECUTIVE SUMMARY

Following his recent election victory, Premier Campbell has repeatedly asked British Columbians to hold him accountable to the Liberal Party election promises. For a party generally perceived as pro-business, one of the boldest promises was to eliminate corporate subsidies. The Liberals also committed to developing a “leading edge forest industry that is globally recognized for its productivity and environmental stewardship.” Together, these two commitments provide an opportunity for structural reform of the forest industry that could have far-reaching consequences for the future of British Columbia's environment and economy.

However, to fulfill its commitments, the new government must phase out the subsidies that have inhibited the logging industry from developing into an innovative, diverse and sustainable industry. The elimination of subsidies is necessary to create that "leading edge forest industry", because existing subsidies encourage economic inefficiency and the depletion of resources. Existing subsidies inhibit change, innovation and investment. They also hinder the development of value-added industry.

This report focuses on subsidies to the BC forest industry. Subsidies occur when public resources are available to private interests at less than their true cost. Resource industries are frequently heavily subsidized, often receiving "perverse subsidies"—subsidies that hurt both the economy and the environment. As a result, subsidies to the logging industry deserve special attention in the BC government's drive to eliminate business subsidies.

The report examines five main categories of subsidies:

**Stumpage:** The fee charged by government to companies for harvesting trees from public land is called stumpage. This report concludes that flaws in the calculation methodology result in the BC government charging companies stumpage rates below market stumpage. The failure to ensure that the rules for calculating stumpage are equitably implemented and enforced provided a potential subsidy of about \$350 million over a two and a half year period. Comparing BC's stumpage to competitively driven stumpage rates in similar timber regions in the US demonstrated total subsidies to the BC forest industry resulting from undervaluing of public timber at \$2.8 billion for one year.

**Bailouts and Handouts:** Direct payment of cash to forest companies is the most readily understandable of forest industry subsidies. Although sometimes public investment may be justifiable to meet broader societal objectives, the \$329 million bailout of the antiquated Skeena Cellulose mill is a textbook example of a perverse subsidy. Handouts are endemic in BC. The report documents ongoing efforts of the Job Protection Commissioner to find ways to reduce company costs through the use of public monies and through regulatory waivers.

**Waiver of Environmental Protection.** When government allows industry to operate without full compliance with environmental legislation, industry is able to transfer the cost of bad environmental practices onto the public, resulting in a substantial subsidy. In BC, neither provincial nor federal environmental rules related to forestry are being fully implemented or enforced, allowing companies to financially benefit from lack of regulatory compliance. It is estimated that this amounts to a subsidy of \$950 million annually.

**Non-recognition and Infringement of Aboriginal Title.** First Nations traditional territories include virtually all of BC's commercial forests. Although Aboriginal Title is constitutionally protected right, logging activities—that would amount to infringements of Aboriginal Title—routinely occur in BC without consent of or meaningful consultation with affected First Nations. Compensation will ultimately be required for both the extraction of First Nations' resources and for restoration of traditional territories damaged by logging. This burden will fall on taxpayers, not the companies who have profited, resulting in a subsidy. In 1999 this subsidy is estimated at between \$233 million and \$1.163 billion.

Tenure, BC logging companies operate predominantly on public land and under government licenses, or tenures. Because of BC government consistently undervalues the stumpage rate, tenures have acquired a market value related to the ongoing stumpage subsidy. Furthermore, the BC government has allowed corporate interests to shut down mills in violation of obligations in tenure agreement yet retain secure supplies of timber, thus providing further corporate benefits.

While the BC Liberal Party has made the general promise to eliminate business subsidies, it has also other more specific promises that directly bear on the subsidies outlined above. These promises include:

Create a market-based stumpage system that reflects global market realities and local harvesting costs;

Cut the forestry regulatory burden by one third within three years;

Introduce a legislative framework for legally respecting Aboriginal Rights and Title and work to expedite interim measures agreement with First Nations;

Develop a working forest land base on public land and fully protect private property rights and resource tenure rights.

Depending on how these promises are implemented, they could help reduce subsidies, but they could also dramatically increase the subsidies to the BC forest industry.

The Liberals also made other specific election promises that speak to other potential subsidies to the forest industry, including:

Apply 1% of all direct forest revenues, not including "super stumpage" to global marketing of BC's forest practices and products;

Increase the Allowable Annual Cut over time through incentives to promote enhanced silviculture.

A high level of vigilance will therefore be required to ensure that subsidies to the BC forest industry do not persist or even increase under the Liberal watch.

The elimination of subsidies in any sector causes economic change and human displacement. As one researcher commented,

Obstacles to removing subsidies tend to be highly political. Opposition of vested interests, local businesses and segments of the workforce can be very powerful. Once payments are in place then a type of addiction follows, and there may be uncertainty and fear over the consequences of subsidy removal.

This report therefore recommends that subsidies to the BC logging industry be phased out gradually and carefully.

Taken as a whole, the federal and provincial government subsidies of the BC forest industry are considerable and counter-productive. The amount of subsidies coming from the provincial government alone (including those proposed by the Liberals) is between \$3 billion and \$6 billion each year. These subsidies represent a significant cost to the taxpayers of British Columbia, while encouraging over-exploitation of forest and hindering the development of a modern, competitive forest industry. British Columbians deserve better.

#### U.S.-JORDAN FREE TRADE AGREEMENT

Mr. BAUCUS. Mr. President, I rise in support of S. 643, which implements the agreement between the United States and Jordan establishing a Free Trade Area. The legislation passed the Finance Committee and is now on the Senate calendar.

Jordan has been one of the few Arab states to actively work with the United States to establish a real and lasting peace in the Middle East. The U.S.-Jordan FTA represents a solid trade agreement as well as a strong signal of support to a valued ally. Although Jordan is not currently a major trading partner of the United States, this agreement should open the door for increased trade and commerce between the U.S. and Jordan. More importantly, it is my sincere hope it will help to bring peace to the region through economic stability.

The principal feature of the U.S.-Jordan FTA is the mutual elimination of tariffs within 10 years. Modeled after the U.S.-Israel FTA, it also limits other non-tariff trade barriers and establishes a mechanism for the settlement of disputes. The agreement is also unique. Most notably, it specifically states that each country shall strive to maintain and enforce its respective labor and environmental laws.

I recognize that these particular provisions have sparked some debate. However, I see them as historic progress on a vexing issue. Not only have they established a reasonable standard that we should expect from any of our trading partners, they also have catapulted this Congress and this administration into a real dialogue toward defining a new international trade consensus. The Jordan agreement aside, I find it completely reasonable that we should expect our trading partners to maintain their labor and environmental standards. That's simply good business. To weaken such standards solely to gain a trade advantage would undermine a country's credibility—not to mention destabilize the very trade relationship the FTA was intended to benefit.

The U.S.-Jordan FTA has been negotiated and signed. The Bush Administration supports it and has no intention of renegotiating a new agreement. The Jordanian Parliament ratified the Agreement last May. Our colleagues in the House have already approved the implementing legislation for the agreement. Jordan's King Abdullah II visits the U.S. next week to urge passage of the agreement.

I hope his visit will encourage potential detractors to recognize the importance for swift action and agree not to stand in the way of immediate consideration of this vital legislation.

Simply put, this is a good trade agreement. The time is right for the Senate to take up and pass it without amendment.

#### MONTANA WILDFIRES

Mr. BAUCUS. Mr. President, the loss of life battling catastrophic wildlife is a tremendous tragedy that lends us perspective. With the loss of four fighters in less than one week in my home